



U.S. Department of Justice

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January 18, 2012.

Andrew C. White, Esquire
Steven Silverman, Esquire
Silverman, Thompson, Slutkin & White
201 North Charles Street
26th Floor
Baltimore, MD 21201

Re: United States v. Barry H. Landau,
Criminal Number CCB-11-0415

Dear Mr. White and Mr. Silverman:

This letter, together with the Sealed Supplement, confirms the plea agreement which has been offered to the Defendant by the United States Attorney's Office for the District of Maryland ("this Office"). If the Defendant accepts this offer, please have him execute it in the spaces provided below. The terms of the agreement are as follows:

Offense of Conviction

1. The Defendant agrees to plead guilty to Counts One and Two of the Indictment now pending against him, which charges him with Conspiracy to Commit Theft of Major Artwork and Theft of Major Artwork in violation of 18 U.S.C. Sections 371 and 668. The Defendant admits that he is, in fact, guilty of these offenses and will so advise the Court.

Elements of the Offense

2. The elements of the offenses to which the Defendant has agreed to plead guilty, and which the Government would prove if the case went to trial are as follows:

Count One:

First: That the defendant was a member of a conspiracy, the purpose of which was to steal and obtain by fraud, objects of cultural heritage, from the care, custody and control of various museums;

Second: That the defendant willfully and knowingly became a member of the conspiracy;

Third: That at least one overt act in furtherance of the conspiracy was committed in the state of Maryland.

Count Two:

First: On or about July 9, 2011, the defendant did steal and obtain by fraud a number of objects of cultural heritage from the Maryland Historical Society, which is a museum as defined in 18 U.S.C. Section 668;

Second: The defendant did so knowingly and unlawfully; and

Third: The objects stolen and obtained by fraud were in the care, custody and control of the Maryland Historical Society, and were either more than 100 years old and worth in excess of \$5,000, or were less than 100 years old and worth at least \$100,000.

Penalties

3. The maximum sentence provided by statute for the offense to which the Defendant is pleading guilty is as follows: Count One: Five years imprisonment, a \$250,000 fine followed by a term of supervised release of not more than three years; Count Two: Ten years imprisonment, a \$250,000 fine followed by a term of supervised release of not more than three years. In addition, the Defendant must pay \$200.00 as a special assessment pursuant to 18 U.S.C. § 3013, which will be due and should be paid at or before the time of sentencing. This Court may also order him to make restitution pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664.¹ If a fine or restitution is imposed, it shall be payable immediately, unless, pursuant to 18 U.S.C. § 3572(d), the Court orders otherwise. The Defendant understands that if he serves a term of imprisonment, is released on supervised release, and then violates the conditions of his supervised release, his supervised release could be revoked - even on the last day of the term - and the Defendant could be returned to custody to serve another period of incarceration and a new term of supervised release. The Defendant understands that the Bureau of Prisons has sole discretion in designating the institution at which the Defendant will serve any term of imprisonment imposed.

Waiver of Rights

4. The Defendant understands that by entering into this agreement, he surrenders certain rights as outlined below:

¹ Pursuant to 18 U.S.C. § 3612, if the Court imposes a fine in excess of \$2,500 that remains unpaid 15 days after it is imposed, the Defendant shall be charged interest on that fine, unless the Court modifies the interest payment in accordance with 18 U.S.C. § 3612(f)(3).

a. If the Defendant had persisted in his plea of not guilty, he would have had the right to a speedy jury trial with the close assistance of competent counsel. That trial could be conducted by a judge, without a jury, if the Defendant, this Office, and the Court all agreed.

b. If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. Counsel and the Defendant would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified, and would have the opportunity to strike a certain number of jurors peremptorily. All twelve jurors would have to agree unanimously before the Defendant could be found guilty of any count. The jury would be instructed that the Defendant was presumed to be innocent, and that presumption could be overcome only by proof beyond a reasonable doubt.

c. If the Defendant went to trial, the government would have the burden of proving the Defendant guilty beyond a reasonable doubt. The Defendant would have the right to confront and cross-examine the government's witnesses. The Defendant would not have to present any defense witnesses or evidence whatsoever. If the Defendant wanted to call witnesses in his defense, however, he would have the subpoena power of the Court to compel the witnesses to attend.

d. The Defendant would have the right to testify in his own defense if he so chose, and he would have the right to refuse to testify. If he chose not to testify, the Court could instruct the jury that they could not draw any adverse inference from his decision not to testify.

e. If the Defendant were found guilty after a trial, he would have the right to appeal the verdict and the Court's pretrial and trial decisions on the admissibility of evidence to see if any errors were committed which would require a new trial or dismissal of the charges against him. By pleading guilty, the Defendant knowingly gives up the right to appeal the verdict and the Court's decisions.

f. By pleading guilty, the Defendant will be giving up all of these rights, except the right, under the limited circumstances set forth in the "Waiver of Appeal" paragraph below, to appeal the sentence. By pleading guilty, the Defendant understands that he may have to answer the Court's questions both about the rights he is giving up and about the facts of his case. Any statements the Defendant makes during such a hearing would not be admissible against him during a trial except in a criminal proceeding for perjury or false statement.

g. If the Court accepts the Defendant's plea of guilty, there will be no further trial or proceeding of any kind, and the Court will find him guilty.

h. By pleading guilty, the Defendant will also be giving up certain valuable civil rights and may be subject to deportation or other loss of immigration status. The Defendant recognizes that if he is not a citizen of the United States, pleading guilty may have consequences with respect to his immigration status. Under federal law, conviction for a broad range of crimes can lead to adverse immigration consequences, including automatic removal from the United States. Removal and other immigration consequences are the subject of a

separate proceeding, however, and the Defendant understands that no one, including his attorney or the Court, can predict with certainty the effect of a conviction on immigration status. Defendant nevertheless affirms that he wants to plead guilty regardless of any potential immigration consequences.

Advisory Sentencing Guidelines Apply

5. The Defendant understands that a sentencing guidelines range for this case (henceforth the “advisory guidelines range”) will be determined by the Court pursuant to the Sentencing Reform Act of 1984 at 18 U.S.C. §§ 3551-3742 (excepting 18 U.S.C. §§ 3553(b)(1) and 3742(e)) and 28 U.S.C. §§ 991-998. The Defendant further understands that the Court will impose a sentence pursuant to the Sentencing Reform Act, as excised, and must take into account the advisory guidelines range.

Factual and Advisory Guidelines Stipulation

6. This Office and the Defendant understand, agree and stipulate to the Statement of Facts set forth herein, which this Office would prove beyond a reasonable doubt, and to the following applicable sentencing guidelines factors.

a. The United States and defendant Barry H. Landau stipulate and agree to the following facts that the United States would have proven beyond a reasonable doubt had this case proceeded to trial:

Beginning in or before December of 2010, and continuing through July of 2011, Defendant Barry H. Landau conspired with Jason Savedoff to steal and obtain by fraud objects of cultural heritage from numerous museums, including the Maryland Historical Society, the Historical Society of Pennsylvania, the Connecticut Historical Society, the University of Vermont, the New York Historical Society, and the Franklin D. Roosevelt Presidential Library, a component of the National Archives. These museums are repositories of rare and valuable documents. Document and manuscript collections at these museums were targeted based on the content of the collections or the potential monetary value of the contents. Landau and Savedoff compiled lists containing the names of famous people and historical figures, frequently noting the approximate market value of documents authored by said individuals. Savedoff and Landau conducted research via the internet and through other means to identify collections containing valuable documents, which, when located, were targeted for theft. Landau also used e-mail to identify for Savedoff the titles and locations of collections that contained documents that were ultimately stolen during the course of the conspiracy. Savedoff utilized aliases when he visited certain libraries to protect the ongoing criminal scheme. The United States contends, but Landau disputes, that many of the aforementioned acts were committed at Landau’s direction.

It was further part of the conspiracy that Savedoff and Landau visited numerous museums and accessed collections of documents of significant value. Savedoff and Landau reviewed the

documents from the collections, and used various techniques to steal them. These techniques included concealing documents inside sports coats and other outerwear which had been modified to contain hidden pockets, as well as distracting museum curators to disguise their true intentions and actions. Once a document had been stolen, steps were taken to remove any marking or inventory control notations made on the document. This was accomplished by applying sandpaper and other abrasive materials to the document. This practice was referred to as “performing surgery.” Landau and Savedoff devised a system wherein they utilized a checklist which identified the author and date of the document; the collection from which it was stolen; whether the museum card catalogue had been collected; whether there existed any microfilm or other “finding aid” for the document at the museum; the nature of any markings on the document; and whether “surgery” had been performed on the document to remove any museum marking. Landau and Savedoff also collected the card catalogue entries and some other “finding aids” to conceal the theft, making it difficult for the museum to discover that an item was missing. Documents which had been copied on microfilm were often avoided because of the increased possibility the theft of such an item would be discovered by the library or repository.

In furtherance of the conspiracy, Landau and Savedoff visited the Franklin D. Roosevelt Presidential Library and Museum in Hyde Park, New York on December 2, 2010. Savedoff utilized the alias of Jason James. While at the library, Landau and Savedoff accessed numerous boxes of documents which contained speeches delivered by President Roosevelt, as well as other writings of President Roosevelt and Henry Morgenthau, the Secretary of the Treasury under President Roosevelt. Landau and Savedoff stole and removed from the library, among other things, seven “reading copies” of speeches delivered by President Roosevelt. “Reading copies” are the actual copies of the speeches from which President Roosevelt read, and contain edits and handwritten additions made by him, and bear his signature. Four of these “reading copies” of speeches were sold by Landau on December 20, 2010 to a collector for the sum of \$35,000. Three other “reading copies” were the inaugural addresses delivered by President Roosevelt on January 20, 1937, January 20, 1941, and January 20, 1945. These items are extremely valuable, and would be sold individually for sums well in excess of \$100,000. From a historical perspective, these reading copies of the inaugural addresses are priceless. The three inaugural addresses were recovered from Landau’s apartment in New York City during court-authorized searches.

On March 17, 2011, Landau and Savedoff visited the New York Historical Society in New York City. They accessed documents from several collections, including the collection of Aaron Vail, and removed from the Society several valuable documents. These documents were all more than 100 years old and were worth in excess of \$5,000. One document was a letter dated April 1, 1780 from Benjamin Franklin, then in Versailles, France, to John Paul Jones in reference to the delivery of quantities of gunpowder from the French to the United States Navy. This letter is valued in the hundreds of thousands of dollars. Other documents stolen by Landau and Savedoff from the New York Historical Society include letters and documents authored by John Jay, Alexander Hamilton, and President George Washington.

It is further stipulated and agreed that Savedoff and Landau traveled to Baltimore,

Maryland on July 9, 2011, in order to visit the Maryland Historical Society. Once at the museum, Landau provided the curators with a list of boxes he wished to review, stating that he was performing research for a book. This list was also sent to the Maryland Historical Society in advance in order that the requested collections could be gathered. Savedoff and Landau both completed several "Collection Request Forms" when they accessed the various document and manuscript collections. Curators at the Maryland Historical Society became suspicious of the pair, and were concerned that documents were being stolen. The curators summoned the police, who discovered that 79 documents had been secreted inside a computer bag located in one of the museum lockers. Savedoff had the key to the locker wherein the documents were discovered. A review of the documents by curators revealed that 60 had been removed from the collections of the Maryland Historical Society. The remaining 19 documents contained markings which identified them as being from collections maintained at the Connecticut Historical Society and other institutions. One of the documents removed from the Maryland Historical Society collections was a land grant dated June 1, 1861 to John Lorn, Private Captain, Hannberts Company, Maryland Militia, War of 1812, and which was signed by President Abraham Lincoln. Said item is more than 100 years old, and has a value well in excess of \$100,000.

On July 12, 2011, a search was conducted at the residence of Barry Landau in New York City. A second search was conducted on August 2, 2011. Over 10,000 documents and objects of cultural heritage were recovered during the search. To date, over 4,000 of these items have been traced as being stolen from libraries and repositories throughout the United States.

A partial list of additional valuable documents and objects of cultural heritage stolen by Savedoff and Landau, and recovered from the searches of Landau's apartment include:

Document 1:

Evidence Item Number: 4161
Source Repository: New York Historical Society
Document Date: May 6, 1794
Author: President George Washington
Description: An endorsement of John Laurance as Judge of the District Court for New York, the document includes the signatures of George Washington, Edmund Randolph, and John Jay.

Document 2:

Evidence Item Number: 1
Source Repository: Connecticut Historical Society
Document Date: May 18, 1843
Author: John Jay Audubon
Description: A four page handwritten letter to Gideon B. Smith bearing the blue stamp of the Connecticut Historical Society affixed to the second page of the letter. The contents

of the letter are personal in nature between John Jay Audubon and Gideon B. Smith. The letter was signed by the author.

Document 3:

Evidence Item Number: 5
Source Repository: Historical Society of Pennsylvania
Document Date: February 4, 1788
Author: John Hancock
Description: A single page handwritten letter that is a proclamation concerning the Commonwealth of Massachusetts bearing the author's signature.

Document 4:

Evidence Item Number: 20
Source Repository: Connecticut Historical Society
Document Date: October 2, 1784
Author: Marie Antoinette
Description: A single page handwritten letter bearing the author's signature with the text of the document written in French.

Document 5:

Evidence Item Number: 22
Source Repository: Connecticut Historical Society
Document Date: September 17, 1878
Author: Napoleon Bonaparte
Description: A single page handwritten letter bearing the author's signature with the text of the document written in French.

Document 6:

Evidence Item Number: 23
Source Repository: Historical Society of Pennsylvania
Document Date: May 30, 1797
Author: John Adams
Description: A three page handwritten letter addressed to Eldridge Gerry concerning the recall of (James) Monroe from France, bearing the author's signature.

Document 7:

Evidence Item Number: 78
Source Repository: University of Vermont
Document Date: April 14, 1874
Author: Karl Marx
Description: A single page handwritten letter addressed to P.H. King concerning a title and price of a book bearing Karl Marx's signature affixed to the letter. The back of the

letter is stamped in blue ink with the following inscription: Wilbur Collection, University of Vermont Library.

Document 8:

Evidence Item Number: 18
Source Repository: Historical Society of Pennsylvania
Document Date: October 1, 1783
Author: Marie Antoinette
Description: A single handwritten page from the Order of the Treasury bearing the author's signature with the text of the document written in French.

Document 9:

Evidence Item Number: 6817
Source Repository: Franklin D. Roosevelt Presidential Library (NARA Museum)
Document Date: January 20, 1937
Author: President Franklin D. Roosevelt
Description: An eleven page typed document with handwritten annotations by President Roosevelt throughout the document. The first page is annotated in President Roosevelt's hand with the following writing: "My reading copy" with "FDR" written underneath. The document contains four hole punches affixed to the left side of the paper with a single purple ribbon attached through the top left hole punch securing the document pages. The last page of the document is signed by President Roosevelt. The document is the 1937 Inaugural Address that was delivered by President Roosevelt after his election that was broadcast throughout the United States.

Document 10:

Evidence Item Number: 6818
Source Repository: Franklin D. Roosevelt Presidential Library (NARA Museum)
Document Date: January 20, 1941
Author: President Franklin D. Roosevelt
Description: A ten page typed document with handwritten annotations by President Roosevelt throughout the document. The document contains four hole punches affixed to the left side of the paper with a single purple ribbon attached through the top left hole punch securing the document pages. The last page of the document is signed by President Roosevelt. In addition to the signature, the last page contains the following statement in President Roosevelt's hand: "The original reading copy." The document is the 1941 Inaugural Address that was delivered by President Roosevelt after his election that was broadcast throughout the United States.

Document 11:

Evidence Item Number: 6819
Source Repository: Franklin D. Roosevelt Presidential Library (NARA Museum)
Document Date: January 20, 1945

Author: President Franklin D. Roosevelt
Description: A five page typed document with handwritten annotations by President Roosevelt throughout the document. The document contains four hole punches affixed to the left side of the paper with a single purple ribbon attached through the top left hole punch securing the document pages. The last page of the document is signed by President Roosevelt. In addition to the signature, the last page contains the following statement in President Roosevelt's hand: "orig reading copy." The document is the 1945 Inaugural Address that was delivered by President Roosevelt after his election that was broadcast throughout the United States.

Document 12:

Evidence Item Number: Baltimore City Property Receipt Form 93/56
Group 3 of 3, Evidence collected from black portfolio in Maryland Historical Society locker. The document is contained within Items 1-60.
Source Repository: Maryland Historical Society
Document Date: June 1, 1861
Author: President Abraham Lincoln
Description: A single page handwritten document bearing the author's signature affixed to the bottom of the page. The document is a land grant that was authorized by President Lincoln. The grant provided land to Private John Larn, a former member of the Maryland Militia who served in the War of 1812.

Additional stolen documents recovered from Landau's residence include:

1786 handwritten poem by Robert Burns
1907 letter from Susan B. Anthony
1830 land grant signed by President Andrew Jackson
1776 letter from John Hancock
1784 letter from George Mason
1858 letter from Napoleon Bonaparte
1906 letter from Theodore Roosevelt
1846 letter from Charles Dickens to Edgar Allen Poe
1868 letter from Robert E. Lee
1479 manuscript from Lorenzo de Medici
1783 letter from Thomas Paine to General George Washington
Circa 1740 handwritten epitaph of Benjamin Franklin
1871 letter from Ulysses S. Grant
1692 letter from Sir Isaac Newton
1868 letter from Florence Nightengale

The Defendant admits that the aforementioned conduct constitutes the crimes of Conspiracy to Commit Theft of Major Artwork and Theft of major Artwork in violation of 18

U.S.C. Sections 371 and 668. These offenses are grouped under the Advisory Sentencing Guidelines. This conduct is covered by Guidelines §2B1.5 and carries a base offense level of 8. Upward adjustments of 2 levels each for the theft of an object of cultural heritage from a museum (2B1.5(b)(2)(F)), the offense was committed for pecuniary gain (2B1.5(b)(4)), and the Defendant engaged in a pattern of misconduct involving cultural heritage resources (2B1.5 (b)(5)). In addition, utilizing the loss table set forth in 2B1.1, a 16 level upward adjustment in that the loss associated with Landau's participation in the conspiracy exceeded \$1,000,000 but was less than \$2,500,000. The United States contends that Landau qualifies for a two-level upward adjustment for aggravating role under Section 3B1.1 (c). The Defendant disputes the appropriateness of this enhancement and both parties agree that the Court will determine whether such an enhancement is appropriate. **Thus, the total offense level will be either 30 or 32.** The United States also does not oppose a two-level reduction in the Defendant's adjusted offense level, based upon the Defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. This Office agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the Defendant's timely notification of his intention to plead guilty. This Office may oppose *any* adjustment for acceptance of responsibility if the Defendant (a) fails to admit each and every item in the factual stipulation; (b) denies involvement in the offense; (c) gives conflicting statements about his involvement in the offense; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date of sentencing; or (g) attempts to withdraw his plea of guilty. **The final adjusted offense level will be 27 or 29, depending on the adjudication by the Court of the government's request for enhancement for aggravating role in the offense.** The United States will recommend that the sentences imposed under Counts One and Two be run concurrently with one another.

7. The Defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history could alter his offense level if he is a career offender or if the instant offense was a part of a pattern of criminal conduct from which he derived a substantial portion of his income.

8. This Office and the Defendant agree that with respect to the calculation of advisory guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments set forth in the United States Sentencing Guidelines will be raised or are in dispute. If the Defendant intends to seek a sentence outside of the advisory guidelines range, he will notify this Office no later than 14 days before sentencing of any factors under 18 U.S.C. § 3553(a) he intends to raise.

9. The parties reserve the right to bring to the Court's attention at the time of sentencing, and the Court will be entitled to consider, all relevant information concerning the Defendant's background, character and conduct.

Forfeiture

10. The Defendant agrees to forfeit to the United States all of his right, title, and interest in any and all money, property, or assets of any kind, derived from or acquired as a result of, or used to facilitate the commission of, the Defendant's illegal activities, including all documents recovered and seized pursuant to search warrants from his residence in Manhattan. A complete inventory of these documents has been provided to the Defendant by the United States. He agrees to the forfeiture of all of these items, except those for which he can provide evidence of ownership. Documents identified as stolen will be returned to the library or repository from which the item was stolen. Documents that cannot be linked to the collection of any particular library or repository will be forfeited by Landau to the National Archives and Records Administration. Landau agrees to execute any document required to accomplish the forfeitures herein.

11. The Defendant agrees to assist fully the United States in the forfeiture of the foregoing assets. The Defendant agrees to take all steps necessary to pass to the United States clear title to these assets, including but not limited to executing any and all documents necessary to transfer his interest in any of the above property to the United States, assisting in bringing any assets located outside the United States within the jurisdiction of the United States, and taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden or otherwise made unavailable for forfeiture. The Defendant further agrees that he will not assist a third party in asserting a claim to the foregoing assets in an ancillary proceeding.

12. The Defendant knowingly waives all constitutional, legal and equitable defenses to the forfeiture of the foregoing assets. It is further understood that, in the event that the United States files a civil action pursuant to [18 U.S.C. § 981/21 U.S.C. § 881] or any law enforcement agency initiates a forfeiture proceeding seeking to forfeit these assets, the Defendant will not file a claim with the Court or agency or otherwise contest such a forfeiture action and will not assist a third party in asserting any such claim. It is further understood that the Defendant will not file or assist anyone in filing a petition for remission or mitigation with the Department of Justice concerning the forfeited assets.

13. The Defendant agrees to identify all other assets and identify the sources of income used to obtain all other assets, including identifying all assets derived from or acquired as a result of, or used to facilitate the commission of, any crime charged in the Indictment. The United States reserves the right to proceed against any remaining assets not identified in this agreement, including any property in which the Defendant has any interest or control.

Restitution

14. The Defendant agrees to the entry of a Restitution Order for the full amount of the victims' losses. The United States will provide the probation officer with a list of victims and the amounts of their respective losses. The Defendant agrees that, pursuant to 18 U.S.C. §§ 3663 and 3663A and §§ 3563(b)(2) and 3583(d), the Court may order restitution of the full amount of the actual, total loss caused by the offense conduct set forth in the factual stipulation. The Defendant

further agrees that he will fully disclose to the probation officer and to the Court, subject to the penalty of perjury, all information, including but not limited to copies of all relevant bank and financial records, regarding the current location and prior disposition of all funds obtained as a result of the criminal conduct set forth in the factual stipulation. The Defendant further agrees to take all reasonable steps to retrieve or repatriate any such funds and to make them available for restitution. If the Defendant does not fulfill this provision, it will be considered a material breach of this plea agreement, and this Office may seek to be relieved of its obligations under this agreement.

Collection of Financial Obligations

15. The Defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report in order to evaluate the Defendant's ability to satisfy any financial obligation imposed by the Court.

In order to facilitate the collection of financial obligations to be imposed in connection with this prosecution, the Defendant agrees to disclose fully all assets in which the Defendant has any interest or over which the Defendant exercises control, directly or indirectly, including those held by a spouse, nominee or other third party.

The Defendant will promptly submit a completed financial statement to the United States Attorney's Office, in a form this Office prescribes and as it directs. The Defendant promises that the financial statement and disclosures will be complete, accurate and truthful, and understands that any willful falsehood on the financial statement will be a separate crime and may be punished under 18 U.S.C. § 1001 by an additional five years' incarceration and fine.

Waiver of Appeal

16. In exchange for the concessions made by this Office and the Defendant in this plea agreement, this Office and the Defendant waive their rights to appeal as follows:

First: The Defendant knowingly waives all right, pursuant to 28 U.S.C. § 1291 or otherwise, to appeal the Defendant's conviction;

Second: The Defendant and this Office knowingly waive all right, pursuant to 18 U.S.C. § 3742 or otherwise, to appeal whatever sentence is imposed (including the right to appeal any issues that relate to the establishment of the advisory guidelines range, the determination of the defendant's criminal history, the weighing of the sentencing factors, and the decision whether to impose and the calculation of any term of imprisonment, fine, order of forfeiture, order of restitution, and term or condition of supervised release).

Third: Nothing in this agreement shall be construed to prevent the Defendant or this Office from invoking the provisions of Federal Rule of Criminal Procedure 35(a), or from

appealing from any decision thereunder, should a sentence be imposed that resulted from arithmetical, technical, or other clear error.

Fourth: The Defendant waives any and all rights under the Freedom of Information Act relating to the investigation and prosecution of the above-captioned matter and agrees not to file any request for documents from this Office or any investigating agency.

Court Not a Party

17. The Defendant expressly understands that the Court is not a party to this agreement. In the federal system, the sentence to be imposed is within the sole discretion of the Court. In particular, the Defendant understands that neither the United States Probation Office nor the Court is bound by the stipulation set forth above, and that the Court will, with the aid of the Presentence Report, determine the facts relevant to sentencing. The Defendant understands that the Court cannot rely exclusively upon the stipulation in ascertaining the factors relevant to the determination of sentence. Rather, in determining the factual basis for the sentence, the Court will consider the stipulation, together with the results of the presentence investigation, and any other relevant information. The Defendant understands that the Court is under no obligation to accept this Office's recommendations, and the Court has the power to impose a sentence up to and including the statutory maximum stated above. The Defendant understands that if the Court ascertains factors different from those contained in the stipulation set forth above, or if the Court should impose any sentence up to the maximum established by statute, the Defendant cannot, for that reason alone, withdraw his guilty plea, and will remain bound to fulfill all of his obligations under this agreement. The Defendant understands that neither the prosecutor, his counsel, nor the Court can make a binding prediction, promise, or representation as to what guidelines range or sentence the Defendant will receive. The Defendant agrees that no one has made such a binding prediction or promise.

Obstruction or Other Violations of Law

18. The Defendant agrees that he will not commit any offense in violation of federal, state or local law between the date of this agreement and his sentencing in this case. In the event that the Defendant (i) engages in conduct after the date of this agreement which would justify a finding of obstruction of justice under U.S.S.G. § 3C1.1, or (ii) fails to accept personal responsibility for his conduct by failing to acknowledge his guilt to the probation officer who prepares the Presentence Report, or (iii) commits any offense in violation of federal, state or local law, then this Office will be relieved of its obligations to the Defendant as reflected in this agreement. Specifically, this Office will be free to argue sentencing guidelines factors other than those stipulated in this agreement, and it will also be free to make sentencing recommendations other than those set out in this agreement. As with any alleged breach of this agreement, this Office will bear the burden of convincing the Court of the Defendant's obstructive or unlawful behavior and/or failure to acknowledge personal responsibility by a preponderance of the evidence. The Defendant acknowledges that he may not withdraw his guilty plea because this Office is relieved of its obligations under the agreement pursuant to this paragraph.

Entire Agreement

19. This letter supersedes any prior understandings, promises, or conditions between this Office and the Defendant and, together with the Sealed Supplement, constitutes the complete plea agreement in this case. The Defendant acknowledges that there are no other agreements, promises, undertakings or understandings between the Defendant and this Office other than those set forth in this letter and the Sealed Supplement and none will be entered into unless in writing and signed by all parties.

If the Defendant fully accepts each and every term and condition of this agreement, please sign and have the Defendant sign the original and return it to me promptly.

Very truly yours,

Rod J. Rosenstein
United States Attorney

By: _____
James G. Warwick
Assistant United States Attorney

I have read this agreement, including the sealed supplement, and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the Factual and Advisory Guidelines Stipulation with my attorney and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

Date

Barry H. Landau

We are Mr. Landau's attorneys. We have carefully reviewed every part of this agreement with him. He advises us that he understands and accepts its terms. To our knowledge, his decision to enter into this agreement is an informed and voluntary one.

Date

Andrew C. White, Esquire

Date

Steven Silverman, Esquire

